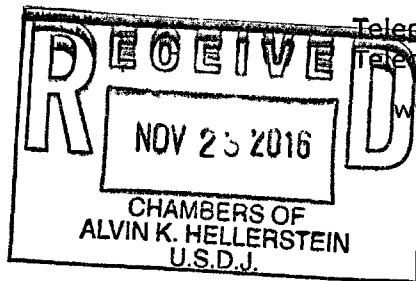


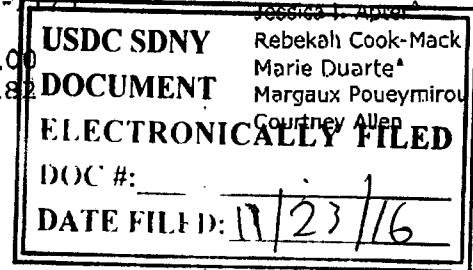
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VIA FAX TO (212) 805-7942 AND ECF

Hon. Alvin K. Hellerstein
United States District Court for
the Southern District of New York
500 Pearl Street, Room 1050
New York, NY 10007-1312

November 22, 2016
*Time to Answer Move is
enlarged to Dec. 13, 2016, and will
not again be enlarged. Counsel is
cautioned that the court does not
accept letters except as authorized.
11-23-16*

Re: *Delta Pilots Association v. Melvin*, Civ. Action No. 1:14-CV-00225-AKH

Dear Judge Hellerstein:

This firm has been retained to represent defendant Russell Melvin in the above-referenced matter. We respectfully submit this letter to raise three concerns to the Court's attention and to seek the Court's assistance. Defendant, who has no residence or business interests in the State of New York, submits this request without waiving his strong objection to personal jurisdiction. See *China Nat'l Chartering Corp. v. Pactrans Air & Sea, Inc.*, 882 F. Supp. 2d 579, 588-596 (S.D.N.Y. 2012).

1) Plaintiff's Refusal to Provide Information Concerning Its Third-Party Discovery

In reviewing the docket, we noted that plaintiff Delta Pilots Association ("DPA") has, by its own account, "served at least half a dozen different subpoenas on Internet Service Providers and telephone companies," prior to amending the complaint to name Mr. Melvin as defendant. (See Attachment 1, transcript of Aug. 14, 2014 conference at Tr. 9:4-6.) I sent a letter yesterday to Nicholas Granath, counsel to DPA, requesting copies of the third-party subpoenas that have been served to date, as required by Federal Rule of Civil Procedure 5(a), as well as copies of any materials produced in response to those subpoenas. Mr. Granath and I conferred by telephone today, and he advised me that DPA will not provide copies of the subpoenas that have been served and will not produce copies of the materials that were obtained in response to its subpoenas.

We are concerned that this places Mr. Melvin at a serious disadvantage in responding to the Amended Complaint. In its motion for leave to take discovery, DPA asserted as follows:

LEVY RATNER, P.C.

Hon. Alvin K. Hellerstein

November 22, 2016

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Nonetheless, plaintiff failed to serve defendant with the Complaint in this matter before November 8, 2015, the date upon which the CFAA limitations period expired. Instead, Mr. Melvin was served for the first time on November 3, 2016, nearly a year after the limitations period had lapsed.

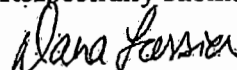
For the reasons stated above, defendant respectfully requests, without waiving its objection to personal jurisdiction in this matter, that the Court direct plaintiff to provide defendant with: (1) copies of all formal discovery served upon third parties, (2) copies of all materials, including deposition transcripts and privilege logs, if any, obtained by DPA in the course of its discovery in this matter prior to service of the Amended Complaint, and (3) copies of the papers filed under seal on or about January 29, 2015.

3) Extension of Time to Respond to Amended Complaint

Defendant was served with the Amended Complaint on November 3, 2016, and a response is due Friday, November 25, 2016. This firm's representation of defendant began only this month, and as the Court is aware there is an extensive docket of motion practice that preceded the service of the Amended Complaint, which we have been reviewing with our client. We are concerned that defendant would be placed at a significant disadvantage if he were required to respond to the Amended Complaint without access to the materials requested above. Defendant therefore respectfully requests an extension of time to answer the Amended Complaint or otherwise move. This is defendant's first request for an extension of time.

With Your Honor's permission, defendant will file a responsive pleading within thirty (30) days of obtaining DPA's production of the requested materials. This request for additional time was made to DPA's counsel, who indicated that DPA will *not* consent to any extension of time. In the alternative, if the Court denies, in whole or in part, defendant's request for the materials sought in this letter, defendant respectfully requests an extension of time until December 30, 2016 to respond to the Amended Complaint.

Respectfully submitted,



Dana E. Lossia

TO: All Counsel Via ECF and email.